United Nations A/AC.182/L.104

General Assembly

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Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization
12-23 April 1999

Working paper submitted by the Russian Federation

The Special Committee submits to the General Assembly at its fifty-fourth session, for consideration and adoption, the following draft resolution:

"*The General Assembly*,

"*Reaffirming* that, pursuant to the Charter of the United Nations, the maintenance of international peace and security and the development of friendly relations and cooperation among States are one of the basic purposes of the Organization,

"*Bearing in mind* the exceptional importance of the Charter for the maintenance of international peace and security, and also for the establishment and maintenance of law and order in relations among States and in the world as a whole,

"*Confirming* the principle that States shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of States, or in any other manner inconsistent with the purposes of the United Nations, and also that the threat or use of force is a violation of international law and of the Charter of the United Nations,

"*Recalling once again* that no considerations, whether political, economic, military or of any other kind, may be used to justify the threat or use of force in violation of the Charter of the United Nations,

"*Reaffirming again* that wars of aggression are a crime against peace which gives rise to responsibility under international law,

"*Recalling* the primary responsibility of the Security Council pursuant to the Charter of the United Nations for the maintenance of international peace and security,

"*Referring to* Chapter VIII of the Charter of the United Nations, which acknowledges the role of regional arrangements or agencies in dealing with such matters relating to the maintenance of international peace and security as are appropriate for regional action, provided that such arrangements or agencies and their activities are consistent with the purposes and principles of the United Nations,

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"*Referring to* Article 11 of the Charter of the United Nations, which authorizes the General Assembly to consider the general principles of cooperation in the maintenance of international peace and security and to make recommendations to the Members of the Organization or to the Security Council or to both,

"*Recalling* that the General Assembly may request the International Court of Justice to give an advisory opinion on any legal question,

"*Referring to* its resolution 53/106 of 8 December 1998, pursuant to which the Special Committee is requested at its session in 1999, *inter alia*, to continue its consideration of all proposals concerning the question of the maintenance of international peace and security in all its aspects in order to strengthen the role of the United Nations and, in that context, to consider other proposals relating to the maintenance of international peace and security already submitted or which may be submitted to the Special Committee at its session in 1999,

"1. *Affirms* that action by air, sea or land forces of all Members of the United Nations or by some of them for purposes of the maintenance of international peace and security is permissible only on the basis of a decision of the Security Council pursuant to Chapter VII of the Charter of the United Nations or in exercise of the inherent right of individual or collective self-defence pursuant to Article 51 of the Charter of the United Nations;

"2. *Emphasizes* the immutability of the provisions of Article 53, paragraph 1, of the Charter of the United Nations to the effect, *inter alia*, that no enforcement action shall be taken under regional arrangements or by regional agencies without the authorization of the Security Council;

"3. As a matter of urgency and pursuant to Article 96, paragraph 1, of the Charter of the United Nations, *requests* the International Court of Justice to give an advisory opinion on the following legal questions:

— What legal consequences the use of armed force by a State or association of States against a sovereign State, either in the absence of a decision of the Security Council taken pursuant to Chapter VII of the Charter or outside the context of the exercise of the right of individual or collective self-defence pursuant to Article 51 of the Charter, may have for the maintenance of international peace and stability, and also for the role the United Nations plays pursuant to its Charter in guaranteeing the system of collective security at the global and regional level;

"4. *Requests* the Special Committee at its session in the year 2000 to continue its priority consideration of the questions dealt with in the present resolution, and on the basis of the results to submit its recommendations to the General Assembly at its fifty-fifth session."

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General Assembly

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Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization
12–23 April 1999

Working paper submitted by Belarus and the Russian Federation

The Special Committee submits to the General Assembly at its fifty-fourth session for consideration and adoption the following draft resolution:

"*The General Assembly*,

"*Reaffirming* that, pursuant to the Charter of the United Nations, the maintenance of international peace and security and the development of friendly relations and cooperation among States are one of the basic purposes of the Organization,

"*Bearing in mind* the exceptional importance of the Charter for the maintenance of international peace and security, and also for the establishment and maintenance of law and order in relations among States and in the world as a whole,

"*Confirming* the principle that States shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of States, or in any other manner inconsistent with the purposes of the United Nations, and also that the threat or use of force is a violation of international law and of the Charter of the United Nations,

"*Recalling once again* that no considerations, whether political, economic, military or of any other kind, may be used to justify the threat or use of force in violation of the Charter of the United Nations,

"*Reaffirming again* that wars of aggression are a crime against peace which gives rise to responsibility under international law,

"*Recalling* the primary responsibility of the Security Council pursuant to the Charter of the United Nations for the maintenance of international peace and security,

"*Referring* to Chapter VIII of the Charter of the United Nations, which acknowledges the role of regional arrangements or agencies in dealing with such matters relating to the maintenance of international peace and security as are appropriate for regional action, provided that such arrangements or agencies and their activities are consistent with the purposes and principles of the United Nations,

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"*Referring* to Article 11 of the Charter of the United Nations, which authorizes the General Assembly to consider the general principles of cooperation in the maintenance of international peace and security and to make recommendations to the Members of the Organization or to the Security Council or to both,

"*Recalling* that the General Assembly may request the International Court of Justice to give an advisory opinion on any legal question,

"*Referring* to its resolution 53/106 of 8 December 1998, pursuant to which the Special Committee is requested at its session in 1999, *inter alia*, to continue its consideration of all proposals concerning the question of the maintenance of international peace and security in all its aspects in order to strengthen the role of the United Nations and, in that context, to consider other proposals relating to the maintenance of international peace and security already submitted or which may be submitted to the Special Committee at its session in 1999,

"1. *Affirms* that action by air, sea or land forces of all Members of the United Nations or by some of them for purposes of the maintenance of international peace and security is permissible only on the basis of a decision of the Security Council pursuant to Chapter VII of the Charter of the United Nations or in exercise of the inherent right of individual or collective self-defence pursuant to Article 51 of the Charter of the United Nations;

"2. *Emphasizes* the immutability of the provisions of Article 53, paragraph 1, of the Charter of the United Nations to the effect, *inter alia*, that no enforcement action shall be taken under regional arrangements or by regional agencies without the authorization of the Security Council;

"3. As a matter of urgency and pursuant to Article 96, paragraph 1, of the Charter of the United Nations, *requests* the International Court of Justice to give an advisory opinion on the following legal questions:

- Under contemporary international law, does a State or group of States have the right to make use of armed force without a decision of the Security Council taken pursuant to Chapter VII of the Charter of the United Nations, except in exercise of the right to individual or collective self-defence pursuant to Article 51 of the Charter?
- Is such use of armed force a violation of the obligations of that State or group of States under the Charter of the United Nations?
- Do States which are not the object of the use of armed force have a right to compensation for damages which they sustained as a consequence of such use of armed force inasmuch as they were unable fully to enjoy their rights under contemporary international law, particularly the Charter of the United Nations?

21 April 1999

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Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization
12–23 April 1999

Working paper submitted by Mexico

As a result of its deliberations, the Special Committee recommends to the General Assembly at its fifty-fourth session the adoption of the following draft resolution:

"*The General Assembly*,

"*Recalling* that the International Court of Justice is the principal judicial organ of the United Nations,

"*Noting* an increase in the recourse to the Court by States and the effects of such an increase on its operation,

"*Recalling* its resolution 53/106 of 8 December 1998, by which it requested the Special Committee to consider practical ways and means of strengthening the International Court of Justice,

"*Bearing in mind* the comments and observations submitted by the Court and by States on the consequences that the increase in the volume of cases before the Court has on its operation,[1]

"1. *Expresses its appreciation* to the Court for the measures adopted to operate an increased workload with maximum efficiency;[1]

"2. *Invites* the Court to keep its working methods under periodic review and to adopt additional measures aimed to expedite its proceedings;

"3. *Invites* States who appear before the Court to consider favourably the guidance offered by the Court in paragraph 3 of the annex to the document containing the comments and observations of the Court,[1] and to adopt, whenever possible, any other measure that may help to expedite the proceedings."

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[1] A/53/326 and Corr.1 and Add.1

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Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization
12–23 April 1999

Working paper submitted by Mexico

1. The following paragraphs are proposed for inclusion in the general resolution to be adopted by the General Assembly at its fifty-fourth session on the report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization (item 160 of the preliminary list) as a result of the consideration of the topic "Strengthening of the International Court of Justice":

"*The General Assembly*,

"*Recalling* that the International Court of Justice is the principal judicial organ of the United Nations,

"*Noting* an increase in the recourse to the Court by States and the effects of such an increase on its operation,

"*Recalling* its resolution 53/106 of 8 December 1998 by which it requested the Charter Committee to consider practical ways and means of strengthening the International Court of Justice,

"*Bearing in mind* the comments and observations submitted by the Court and by States on the consequences that the increase in the volume of cases before the Court has on its operation,[1]

"1. *Expresses its appreciation* to the Court for the measures adopted to operate an increased workload with maximum efficiency;[1]

"2. *Invites* the Court to keep its working methods under periodic review and to adopt, whenever possible, additional measures aimed to expedite its proceedings;

"3. *Invites* States who appear before the Court to implement the measures identified in paragraph 39 of the document containing the comments and observations of the Court,[1] and to adopt, whenever possible, any other measure that may help to expedite the proceedings."

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* Reissued for technical reasons.

[1] A/53/326 and Corr.1 and Add.1.

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2. The Committee may also adopt a decision inviting the competent administrative organs of the United Nations to give careful consideration to the request of the Court for an increased budget. It may be recalled that during the fifty-fourth session of the General Assembly the regular budget of the United Nations for the biennium 2000–2001 will be adopted. Possible language to be reflected in the report of the Special Committee on this issue may be as follows:

> "In the context of the discussion, the Committee was of the view that the request of the International Court of Justice for an increased budget was justified and merited consideration. Nevertheless, since the adoption of decisions on budgetary issues is not within the competence of the Special Committee, it decided to refer the issue to the Advisory Committee on Administrative and Budgetary Questions (ACABQ) and to the Fifth Committee of the General Assembly, and to request them to give a careful consideration to it."

3. Once adopted, the request may be transmitted to ACABQ and to the Fifth Committee by a letter from the Chairperson of the Special Committee.